

REMARKS

Claims 1-33 and 39-45 were pending in the application. Claims 6-9, 13-18, 23-33 and 39-45 have been canceled. Claims 1, 2, 10-12 and 19-22 have been amended. Thus, claims 1-5, 10-12, and 19-22 remain subject to continued examination. Each of these claims is believed to be in condition for allowance. Accordingly, an action to that effect is requested at this time.

DRAWING OBJECTIONS:

The drawings have been objected to on grounds that the requisite petition to use color drawings has not been filed. Applicants respectfully note that the drawings consist exclusively of black and white figures. Accordingly, Applicants respectfully request reconsideration and withdrawal of the prior color drawing objections.

DOUBLE PATENTING:

Claims 1-33 and 39-45 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting in view of claims 1-13 in copending application 09/920,152. In view of the provisional nature of the rejection, Applicants respectfully submit that a terminal disclaimer should not be required at this time. However, upon indication by the Examiner that the claims are allowable in all other respects, Applicants may provide an appropriate terminal disclaimer so as to obviate any continued rejection on this basis.

CLAIM REJECTIONS:

The claims have been previously rejected on grounds that the use of different patterns, colors, designs or shades in an installed area would have been an obvious design choice by a homeowner. In order to more particularly describe and distinguish the subject matter of the present invention, base claim 1 has been amended to specifically recite that the carpet installation incorporates tiles arranged in a substantially random pattern with at least 9 different patterns, colors, shades, designs or combinations thereof with all adjacent tiles in the installation being of a different pattern, color, shade, design, or combination thereof such that no carpet tile is installed in contacting relation with any other tile which is not of a different pattern, color, shade, design, or combination thereof. Applicants respectfully submit that such substantially randomized installation practices with intentional dissimilarity between adjacent tiles would not be obvious as part of a method of installing and recycling carpet tiles as claimed.

Applicants note that in the past great care has been taken in replacing recycled tiles in the exact orientation they had prior to regeneration so as to avoid having tiles of different shades or patterns in adjacent relation to one another following reinstallation. The present invention proceeds contrary to such accepted wisdom by embracing randomness in the installation and placement of dissimilar tiles in adjacent relation. Thus, replacement of tiles in exact registry with the original installation is no longer required. To the contrary, the only requirement in replacing the tiles is that tiles of different pattern, color, shade, design, or combination thereof intentionally surround each tile. Thus, the present invention proceeds completely counter to the prior accepted practices. As the MPEP notes, proceeding contrary to accepted wisdom is evidence of nonobviousness.

Applicants respectfully submit that the mere fact that a homeowner or other installer could have engaged in the claimed practice is not sufficient grounds for maintaining an obviousness rejection when accepted practices are contrary to those claimed. That is, in order to reach the claimed invention, the hypothetical homeowner would have to acquire tiles with at least 9 different patterns, colors, shades etc. and then place those tiles substantially randomly with the proviso that no tile can touch another tile which is the same. Applicants respectfully submit that in the absence of some teaching or suggestion as to the desirability of this practice that a determination of obviousness can only be based on what one might have done using the present application as a guide (improper hindsight). Accordingly, reconsideration and withdrawal of all prior rejections is requested.

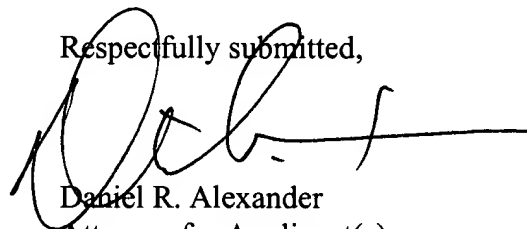
CONCLUSION:

Applicants respectfully submit that all claims should stand in condition for allowance at this time. Accordingly, an action to that effect is requested. While an attempt has been made to address all outstanding issues, to any extent that one or more issues remain, the undersigned respectfully requests a telephone conference to resolve such issues.

An extension of time accompanies this paper. To any extent required for acceptance of this paper, a request for an added extension of time is hereby made and authorization is provided to charge any fee required for acceptance of this paper to Deposit Account 04-0500.

September 21, 2004

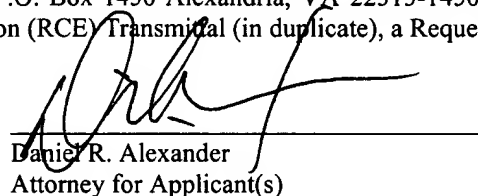
Respectfully submitted,



Daniel R. Alexander
Attorney for Applicant(s)
Registration Number 32,604
Telephone: (864) 503-1372

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service in an Express Mail envelope, addressed to Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on September 21, 2004 along with a Request for Continued Examination (RCE) Transmittal (in duplicate), a Request For Extension of Time (in duplicate), and a postcard receipt.



Daniel R. Alexander
Attorney for Applicant(s)